

- 1) Introductions of Task Force Chair, Members, Sterling Associates and audience.
- 2) Agenda included in presentation.
- 3) Last meeting notes, no comments or corrections. **Decision:** Adopted.
- 4) Objective of today's meeting (presentation p.5)
- 5) Previous meeting decisions (presentation p.6)
- 6) Question: (Phil Wayt) Will you, as staff, try to limit the number of top priorities addressed by the Task Force? (Sterling Associates): There may be some things that don't require as much external research so we didn't want to set a hard and fast limit. Depending on the results of the priority selection, we will assess how much we think the group can accomplish. If we can do more, we can continue down the list.
- 7) Discussion on impact assessments
 - a) (Rep. Conway) Unresolved from last session. As we've outlined our goals, my clear concern from a legislative perspective is the economic impacts, and state revenue impacts of any recommendations that come forward. So I hope that whatever process we follow allows an opportunity to evaluate that aspect. (Sterling Associates): Yes, we plan to incorporate the economic impacts into the analysis with the help of the Office of Financial Management when necessary.
 - b) (Senator Kohl-Welles) I want to address the same issue. I think we need to make sure economic impacts are built in (perhaps in the 3rd goal). For instance, what is the impact on beer and wine producers? This should transcend all considerations. Not sure how to go about doing that procedurally, but would like that prominently incorporated into the process.
 - i) (Sterling Associates): We intend to make that a major component of any analysis we're doing on any of the potential alternatives. We can make sure that's a strong part of the analysis.
 - ii) Senator Kohl-Welles would like to see it part of the third goal.
 - c) (Carol Owens): In each of these three goals, we want to make sure that any time there is a change considered in access or purchasing ability, that there is an assessment of the impact of abuse. The prevention / treatment community are a little outvoted on the Task Force, but we want to make sure that we have a clear balance in our analysis and ultimate recommendations.
 - d) (Sterling Associates): In the diagram, you can see the decision process we had envisioned for any changes. We incorporated questions about state, business, societal and consumer impacts. We will continue to assess all alternatives against those four items.
 - e) (Fred Hellberg): Lack of impact measures were identified by six members as high priority. These should be an overlay of all items we look at. From a policy perspective there needs to be some recommendation from this group that this needs to be incorporated throughout.
 - f) (Mary Sagawa): As we talk economic impact, we also need to talk about the economics related to misuse and over-consumption (DUIs, etc.)
 - g) (Tim Hightower): Motion to include a Preamble to the policy goals that all LCB actions will take into account these issues as they consider changes or new regulations, economic impacts on their promulgation and regulation.

- h) (Sen. Kohl-Welles): I like that idea since my concern doesn't fit very well in policy #3.
 - i) (Mary Sagawa): offered to help with language on use and abuse language as well. Tim and I have different issues.
 - j) (Scott Hazlegrove) (substituting for Katie Jacoy): it appears to me that issues around treatment issues are incorporated in the policies already adopted. Isn't the idea to use the policies as criteria for any changes?
 - k) (Mary Sagawa): The policy stated is only good to the extent that it is actually used to evaluate alternatives.
 - l) (Scott Hazlegrove): If the process designed to assess each alternative against the three policy goals, the only thing that's missing from the policy goals is the economic piece.
 - m) (Mary Sagawa): I'm fine with that as long as we're hitting all three of those areas.
 - n) (Tim Hightower): The purpose of these goals is to make sure that all the items we talk about are designed to achieve those goals.
 - o) (Sterling Associates): In the preamble, we will state that the goals along with economic impacts will be the basic criteria used to consider any changes.
 - p) (John Sullivan) (substituting for John McKay): 2nd the motion
 - q) (Tom Carr and Fred Hellberg): Motion to table until the language is developed. Adopted. [**Action:** Sterling Associates will draft language for the preamble and send out via email for comment.]
- 8) Stakeholder presentations (from several groups who had requested to be on the Task Force and do not feel their interests are necessarily represented by members on the Task Force):
- a) WPEA – Luis Moscoso (see handout) – Employee effects need to be considered when assessing impacts of changes. Could provide insight not represented on the Task Force.
 - (1) Discussion: Rep. Conway: Would you be able to help inform the issue of central warehousing? Mr. Moscoso: Yes. Rep. Conway: the composition of the Task Force was in the legislation, and did not include employee groups. Like to have employee input. Hope to arrange a process so they have input. Rick Garza: employees have been involved in other critical decisions and they will be involved in discussions about impacts to the agency and employees. WPEA had every opportunity to be involved during the legislation discussion that resulted in the Task Force. Senator Kohl-Welles: brought up the concern that employees were not on the Task Force at the first meeting. Not an intention to exclude any group. Don't see a reason to specifically exclude them. Shouldn't be so inflexible to not add to the Task Force. Added the California Wine Institute before the Task Force was convened. Don't see any harm in adding an employee representative. Mr. Moscoso: Mr. Garza missed the point that the WPEA should be involved at the Task Force level. Do not want to force membership onto the Task Force, but want to be involved somehow. Lynn Gust: there is a process for anyone to submit comments at any time.
 - b) Independent Distributors – Matt Mabus (see handout): Independent distributors consist of 26 independent, privately owned distributors. Issues do not always align with the Washington Beer and Wine Wholesalers Association (WBWWA). Independents are a big part of the industry. Biggest priority for change is price posting; it is difficult to understand and complex. It is a drain on time to accomplish

– can't hire someone else to do it – need to be integrally involved in the business to do it. Doesn't seem to accomplish its goal. It is a time-sensitive, inflexible process. Every change takes 6 weeks to months and sometimes the product is then not available. If the reason is to maintain the 10% markup, they mark up more anyway. Also would like the COD requirement considered. Would like a short-term (7-14 days) credit provision allowable. Texas uses a blackout so if someone doesn't pay they cannot get product from anyone else. Would also like quantity discounts. Even as little guys, would like to conduct business as we see fit. The system is currently abused – some manage to get around it. Would like to forego delivered pricing. There are some situations when we would like to be able to send a case rather than drive it to some remote location.

i) Questions/Comments: Phil Wayt – do independents represent mostly wine distribution? Matt: Yes. Phil: Would you agree there is a difference between “post” and “hold”? Matt: Yes, we would like to get rid of both. Fred Hellberg: what is your opinion of how other states regulate? Matt: people who come here to do business find it very difficult. Texas is a difficult, but most others are easier. I would put WA in the bottom 5th for the most complex regulatory. Fred: Do other states have consumption problems that you know of? That is, do our rules keep consumption limited? Matt: wine segment somewhat insulated because of higher priced wine. Not an area that kids try to access. Rep. Conway: All but 1 of the 26 owned by WA residents? Matt: Yes. Conway: How are other states different to work in? Matt: WA is harder – more complex. Conway: Would like to see how the issues Matt listed are handled in other states. Rick Garza: Are prices for wine higher in WA than in other states? Matt: Yes, I believe so. Gene Vosberg: It seems other states do quite well without so many constraints of trade. If what other states are doing does not result in higher consumption we should look at that. Conway: Need to compare to regulated states, and not un-regulated states. Fred: But need to look at unregulated states too to see what their impacts are. Nate: all states are regulated. Perry Park: are we looking at other states' regulations and rules, and have they been identified? Sterling Associates: We heard some state's referenced in interviews and we are looking at a number of criteria related to states' data and circumstances. We will include the characteristics of any states used the research data.

c) Washington State Sports and Entertainment Facilities Owners Association: Kim Bedier (Executive Director of Everett Event Center and Vice President of WSSEFOA) and Martha Fuller (CFO of First & Goal and President of WSSEFOA). Provide food and beverage on-site at their facilities. How are they affected by the 3-tier system? Impacted especially in prevention of accessing revenue streams through naming rights related to alcoholic beverage companies. (See handout of other states that allow naming rights.) Naming rights does not impact competition or monopolization of one company. All examples where an area is sponsored/named by manufacturer, still serve many different products. They also participate in many education and prevention campaigns. Facilities are very expensive to operate, and are always looking for creative ways to subsidize and not ask for more public funds. Because of WA regulations, we can't take advantage of the funding available. Would like to form a sub-committee and participate to bring information to the Task Force. Most facilities work with concessionaires, who make the decisions of what they buy. And they are excluded from participating in contracts with manufacturers related to advertising. This separates the product available from the pressure of manufacturers/advertising. Tom Carr: advertising is not illegal, correct? (Yes). You are talking specifically about naming rights? (Yes) Conway: how do you select who would get the naming rights? The highest bidder? WSSEFOA: that's part of it. A sponsor would likely propose something and then

we would decide. Typically they have a relationship with lots of other states, but can't do it here. Mary Sagawa: I'm confused about what more manufacturers want with naming rights? WSSEFOA: They pay more for naming rights. It establishes a presence for the manufacturer. Jim Halstrom with Emerald Downs: Emerald Downs is also the concessionaire – which puts them under the same rules as all retailers. Have been operating as they always have under LCB rules. Recently now told they cannot do some things they have been doing. Like advertising in the daily program, having a named manufacturer's handicap race. None of these result in exclusion of other products. Customer demand results in what is sold, not who sponsors it. Mike Hale: these presentations are interesting, but I'm jealous of the time spent. Should stick to written comments. Sen. Kohl-Welles: I like the presentations and it is helpful. Sterling Associates: The logic to allow these particular presentations was because they had requested to be on Task Force but could not; this was the compromise. Not all stakeholders will have access to presentations. Fred: What commercial interest would oppose the naming rights? WSSEFOA: Not aware of who would be strongly opposed to this. The named areas still provide all products. Fred: then probably not objections from other businesses? WSSEFOA: Have worked in other states, and haven't had other businesses object. Mike Hale: The naming issue doesn't seem to have any negative effect on public. Rep. Conway: How do other states handle these issues?

9) Change candidate survey results (see presentation 7-10)

- a) Phil: WBWWA's position is that the Costco issues are all on appeal with the courts, and the Task Force should not be acting on them until the judicial system makes a final determination on individual items as well as the state's authority. That said, the price posting system is complex. Post and Hold are two different things. Posting lists prices and must be in effect for 30 days. In Oregon courts found posting illegal. But Oregon still has a "hold". The survey forced a vote on one thing, even though there are two components. Difference in how they would decide on price post vs. hold. Sterling Associates: many of the categories include multiple specific items. The analysis will start parsing apart the issues, and alternatives will also likely include differences.
- b) Sterling Associates: In the survey, some people did not indicate any "high" priorities, and some applied more than five. The instructions said to try to limit to five, but it was not completely restricted. Final decisions will be limited.
- c) Mike Hale: This process is a little cumbersome. We could discuss the general principles of a category (i.e. money's worth in general) vs. specific regulations. Need to be practical. Regulations need to be self-enforcing to the extent possible. Aren't always now. But so what? Doesn't seem to have a negative impact on society. Instead of picking five individual items, perhaps we could discuss more broadly. Would rather discuss general principles behind specific regulations.
- d) Senator Kohl-Welles: Intrigued with Mike's suggestion. Does the survey capture the entertainment industry's concerns? Sterling Associates: yes, there are several areas. Sen. Kohl-Welles: I won't be sure if voting for a certain category captures the issue. Mike Hale: Discussion and decisions should be measured against the 21st century world. Rep. Conway: Would like to know more about each category before the vote. Looking to stakeholder groups to define the issues. Sterling Associates: The list of issues came from stakeholders – from the comments/interviews/focus groups.

- e) Phil Wayt: Further consolidating the issues would not be good because some would have a different outcome. Also the other question results from the survey need to be considered, such as the societal impacts.
 - f) Gene Vosberg: Agree with Mike Hale, that for instance pricing in general would be worth discussing together. Hard to choose only a few high priority areas. Sterling Associates: You could do that if the Task Force wants, but would mean the research would be less specific and the discussion would be more policy-related than specific to rules.
 - g) Mike Hale: Our focus isn't to rewrite the legislation, but to provide guidance at a higher level. The Task Force could bring a 21st century vision to the LCB. Believes that is the purpose of the Task Force. Rick Garza: Agrees. From the LCB perspective, we are looking for guidance. The LCB has to enforce regulations and don't always have the time to discuss the relevancy of regulations. Sterling Associates: This is a fundamental decision point. The Task Force needs to decide if the outcome of the Task Force is to provide guiding principles/policy direction or if it needs to provide recommendations on specific regulation changes.
 - h) Phil Wayt: We should forget voting and move forward with an ongoing discussion.
 - i) Steve Lynn: We have data on the survey that says everything is an issue. There is so much redundancy of control – that is the issue. Where are the safeguards, why are they there, are they still relevant? Like information on the survey about why the regulation is there was the first time I've seen it articulated. The discussion should focus on if the reasons for the regulations are still relevant. Survey document gave context to the regulations. Rick Garza: We don't have unlimited time; we need to prioritize. We may need to extend the Task Force.
 - j) Scott Hazlegrove: My experience is that general reports (guidance) end up being “shelf-art”.
 - k) Carol Owens: Suggest we go ahead with the selection and then perhaps categorized.
 - l) Tim Hightower: Didn't we already prioritize with the survey? Why are we doing this again?
 - m) Mary Sagawa: Not everyone stuck with only five high priorities. Sterling Associates: And the group had decided at the last meeting that the actual vote needed to be conducted at the meeting.
 - n) Lynn Gust: Task Force should bring all information to the legislature; need to discuss all topics.
 - o) Phil Wayt: There is not enough time to vote. This is important stuff. We need more time. Sterling Associates: The reason for the survey was to give you time (two weeks) to collect information, get input from your members, etc. The process today is the actual vote on the selection.
 - p) Kohl-Welles asked that the legislation related to the Task Force be read. Nate Ford read it.
- 10) Lunch / priority selection vote
- 11) Presentation by Bernie Kipp, Alcohol and Tobacco Tax and Trade Bureau (see presentation)
- a) Three major considerations:
 - (1) Fed. Statutes much more liberal than state
 - (2) Chargeable parties for fed violations very different than state
 - (3) Cause and effect nexus required for fed regulations

b) Task Force member questions:

- i) Rep. Conway: How does your office deal with our state enforcement system? Response: Our relationship with the Washington State enforcement officials is very good. Important to keep in mind that federal regulations are not involved in intrastate activity.
- ii) Rep. Conway: The federal government has not been anxious to fund enforcement activity. Response: The Alcohol and Tobacco Tax and Trade Bureau is a remnant of the Bureau of Alcohol, Tobacco and Fire Arms (ATF). After 9/11, the Fire Arms component of that agency went to another Homeland Security. Now the director is anxious to get the alcohol program strengthened, to respond to industry concerns about violations.
- iii) Shelley Sieveking: The amendments in 1995 were quite significant. Response: True. The 1995 amendments made it more difficult to make a case because of the Fedway Case.
- iv) John Sullivan (attending for John McKay): What “exclusion” issues cannot be addressed through the FTC? Response: The FTC tends to deal with market control, and market area. Under the Federal Alcohol Administration Act, we can drill down to specific retailers.
- v) Greg Hopkins: In 2005, how many investigations did your office conduct in Washington, and how many of those resulted in prosecution? Response: None.
- vi) How have circumstances changed between 1934 and today? In 1934 the concern was manufacturers controlling retailers. Large retailers like the ones we are seeing in today’s industry were not in existence then. We’re seeing a consolidation at the supplier level.

12) Potential Change items selection tally (see selection tally document)

- a) Carol Owen: Would like to see assignment of numerical values to the high, medium, low and no, and get an average.
- b) Kohl-Welles: Would like to go back to notion of looking at the broader perspective. Don’t want to get bogged down in the detail and may lose track of broader public policy discussion. Could be broken into these categories:
 - i) Method of distribution and sale
 - ii) Relationship between tiers
 - iii) Control (enforcement) of promotion & consumption
- c) Mike Hale: Why is there a “no” category? Does that mean we can’t talk about it? Nate Ford: Because some feel strongly that it is not reviewed.
- d) Mary Sagawa: I believe it is not so much a no, as much as what we discuss first.
- e) Mike Hale: **Move** to take the broad categories Senator Kohl-Welles discussed and focus on them, rather than individual specific detail. Let’s talk about aspects of the items versus specific items.
- f) Representative Conway: The categories are just holders for the specific issues. Should figure out a way to give weight to the prioritization of items within each category. Need to decide which group is a priority.

- g) Senator Kohl-Welles: Suggested August meeting discuss method of distribution and sale; September-relationships between tiers and finalize recommendations from first category; October - Control category and finalize recommendations from relationship between tiers. Sterling Associates: If the group can't get to detail of each category, need to decide which is more important, the principle or the detail. Rep. Conway: We will need to do what we can and adjust the schedule.
- h) Tom Carr: Categorizing helps focus, but does not narrow the scope. We won't be able to get it all done. Suggest **amending the motion** to at least eliminate the lowest priority items from the vote from consideration. Katie Jacoy: What about weighing them?
- i) Lynn Gust: Uniform pricing is a high priority for three people in the room; we shouldn't just dismiss it, because seven people don't want it to change.
- j) Steve Lynn: Many items are linked, so much of it will come up anyway.
- k) Mike Hale: The intent of my motion was to discuss in groups – more efficient. John Sullivan: Can't talk about price posting without talking about uniform pricing. Tim Hightower: We already have seven groupings. Why not take them that way? Katie Jacoy: The legislators seem to be looking for overall direction. If putting them in three categories helps, let's do it.
- l) Senator Kohl-Welles: suggest adopt motion of schedule and three policy categories. Maybe have subcommittees to deal with each category.
- m) **Amendment to motion** to eliminate the items in yellow. **NO's** have it by voice.
- n) **Motion** to prioritize by the three broad groups (method of distribution and sale, relationship between tiers, control of promotion and consumption). **Yes**.
- o) Senator Kohl-Welles would like all staff copied on correspondence. Representative Conway suggested House staff can help with research.
- p) Phil Wayt: Need to know what each item is; perhaps an LCB staff presentation.
- q) Senator Kohl-Welles is there interest in establishing sub-committees? Representative Conway: The subcommittee could outline the specific issues to consider within each item. Mary Sagawa: Appreciates the thought of coming in with more information, but Task Force members would have to choose which sub-committees they want to be on to provide perspective, and then that perspective would not get represented on the other sub-committees. Katie Jacoy: There are too many diverse interests for members to divide into sub-committees.
- r) **Action:** Sterling Associates will get started on categorizing items within the three categories and will weight the High, Medium, Low and No priorities.
- s) Adjourned.